

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

NOTICE OF PROPOSED REGULATORY ACTION

TITLE 13, CALIFORNIA CODE OF REGULATIONS
DIVISION 2, CHAPTER 6.5, ARTICLES I AND 3
AMEND SECTIONS 1200, 1201, AND 1213.2

MOTOR CARRIER SAFETY - DEFINITIONS (CHP-R-2000-06)

The California Highway Patrol proposes to amend regulations in Title 13, California Code of Regulations (13 CCR) related to Motor Carrier Safety Regulations.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Title 13 CCR, Division 2, Chapter 6.5 contains the California Highway Patrol's Motor Carrier Safety Regulations. Article 1, Sections 1200 and 1201 contain the regulations pertaining to scope and definitions. Article 3, Section 1213.2 contains the regulations pertaining to automatic on-board recording devices used to record and maintain driver's hours of service records.

In addition to material changes, nonsubstantive changes are being proposed to enhance readability and clarify the intent of the regulations. Included in these non-substantive changes is the addition of italicized headings.

(1) **Section 1200(b)(3)**

This amendment will replace the term "commercial vehicle" with the correct term "commercial *motor* vehicle." These two phrases are not always interchangeable, as they are separately defined in the California Vehicle Code. In this subparagraph, "commercial motor vehicle" is meant and should be used.

(2) **Section 1201**

This amendment declares the scope of the application of the definitions.

(3) **Section 1201(c)**

This amendment will replace the informal term "driver log" with the proper terminology "driver's records of duty status," to maintain consistency with other references to this document contained in 13 CCR, Division 2, Chapter 6.5.

(4) **Section 1201(d)**

This amendment will adopt a definition of the term "commercial motor vehicle" identical to its definition in California Vehicle Code (VC) Section 15210.

(5) Section 1201(h)

This amendment will define the term "driving time" as it is defined in Title 49, Code of Federal Regulations (49 CFR), Section 395.2.

(6) Sections 1201(n) and (o)

Current regulation incorporates by reference 49 CFR, Section 171.8, as published on October 1, 1992, to define the terms "hazardous substances" and "hazardous wastes," which are used in the definitions of "interstate driver" and "intrastate driver." This amendment will update the reference to the current federal version, published on October 1, 1999.

(7) Section 1201(q)

This amendment will permit the term "carrier" to be used interchangeably with the term "motor carrier." This amendment will not change the existing definition of "motor carrier" in this Chapter of 13 CCR.

(8) Section 1201(s)

The Federal Highway Administration, predecessor to the Federal Motor Carrier Safety Administration, amended 49 CFR to include all time spent providing a breath sample or a urine specimen, including time spent traveling to and from the collection site, as on-duty time. This amendment will maintain consistency with federal hours of service requirements as required by Section 34501.2 VC.

This amendment will also remove the term "drive or operate" from 13 CCR 1201(s)(3). This amendment will not change the definition of "on-duty time," however, it will offer a distinction between time spent at the driving controls of commercial and noncommercial motor vehicles.

Additionally, the driving reference contained in 13 CCR 1201(s)(9) will be deleted to maintain consistency with existing federal regulations. This amendment will require a driver to record all time spent operating a nonregulated vehicle as on-duty time (not driving), whether the employer is a motor carrier or a nonmotor carrier entity, rather than as on-duty (driving).

(9) Section 1213.2(i)

This amendment will replace the informal term "driver's log grid" with the proper terminology "driver's records of duty status graph-grids," to maintain consistency with other references to this document contained in 13 CCR, Division 2, Chapter 6.5 and with federal regulations.

PUBLIC COMMENTS

Any interested person may submit written comments on these proposed actions via facsimile to (916) 446-4579, by email to cvsregs@chp.ca.gov, or by writing to:

California Highway Patrol
Commercial Vehicle Section
ATTN: Mr. Gary Ritz

P.O. Box 942898
Sacramento, CA 94298-0001

Written comments will be accepted until 4:45 p.m., June 4, 2001.

No public hearing has been scheduled. If any person desires a public hearing, a written request must be received by the California Highway Patrol, Commercial Vehicle Section, no later than 15 days prior to the close of the written comment period.

AVAILABILITY OF INFORMATION

The California Highway Patrol has available for public review an initial statement of reasons for the proposed regulatory action, the information upon which this action is based (the rulemaking file), and the proposed regulation text. Requests to review or receive copies of this information should be directed to the California Highway Patrol at the foregoing address, by facsimile at (916) 446-4579, or by calling California Highway Patrol, Commercial Vehicle Section, at (916) 445-1865.

All requests for information must include the following information: the title of the rulemaking package, the requester's name, proper mailing address (including city, state, and zip code), and a daytime telephone number, in case the requester's information is incomplete.

The rulemaking file is available for inspection at the California Highway Patrol, Commercial Vehicle Section, 444 North Third Street, Sacramento. Interested parties are advised to call for an appointment.

All documents regarding the proposed action are also available through our web site at www.chp.ca.gov/regulations.

Any person desiring to obtain a copy of the adopted text and a final statement of reasons may request them at the above noted address. Copies will also be posted on our web site.

CONTACT PERSON

Any inquiries concerning the written materials pertaining to the proposed regulations should be directed to Mr. Gary Ritz or Mr. Jack Schwendener, California Highway Patrol, Commercial Vehicle Section, at (916) 445-1865. Inquiries regarding the substance of the proposed regulations should be directed to Mr. Gary Ritz.

ADOPTION OF PROPOSED REGULATIONS

After consideration of public comments, the California Highway Patrol may adopt the proposal substantially as set forth without further notice. If the proposal is modified prior to adoption and the changes are not solely grammatical or nonsubstantial in nature, the full text of the resulting regulations, with the changes clearly indicated, will be made available to the public for at least 15 days prior to the date of adoption.

FISCAL AND ECONOMIC IMPACT

The California Highway Patrol has made an initial determination that the proposed regulatory action: (1) will have no effect on housing costs; (2) will not impose any new mandate upon local agencies or school districts; (3) involves no non discretionary or reimbursable costs or savings to any local agency, school district, or state agency, or federal funding to the state; (4) will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California; and (5) will not have a significant statewide adverse economic impact on businesses including the ability of California businesses to compete with businesses in other states. The regulated community is encouraged to respond during the comment period of this regulatory process if significant impacts are identified.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The California Highway Patrol is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

EFFECT ON SMALL BUSINESSES

The California Highway Patrol has determined that the proposed regulatory action may affect small businesses.

ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the California Highway Patrol must determine that no reasonable alternative considered by the California Highway Patrol, or that has otherwise been identified and brought to the attention of the California Highway Patrol, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action. The California Highway Patrol invites interested parties to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

AUTHORITY

This regulatory action is being taken pursuant to California Vehicle Code Sections 2402, 34501, and 34501.5.

REFERENCE

This action implements, interprets, or makes specific California Vehicle Code Sections 34500 and 34501.

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL
M. PADILLA, Chief
Enforcement Services Division